

DLLR

STATE OF MARYLAND

DEPARTMENT OF LABOR, LICENSING AND REGULATION

ROBERT L. EHRLICH, JR., Governor
MICHAEL S. STEELE, Lt. Governor
JAMES D. FIELDER, JR., Ph.D., Secretary

OFFICE OF THE SECRETARY

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May 31, 2005

Ms. Emily Stover DeRocco
Assistant Secretary, U.S. Department of Labor
Employment and Training Administration
S-2307
Frances Perkins Building
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Assistant Secretary DeRocco:

Governor Robert L. Ehrlich, Jr. has authorized the Department of Labor, Licensing and Regulation, on behalf of the Governor's Workforce Investment Board (GWIB) and the local workforce investment areas, to request the following waivers as part of our State Plan:

- To eliminate the 20% limitation on transferring funds between Adult and Dislocated Worker programs under WIA Section 133 (b) (4) and allow the transfer of up to 100% of local area allocations between the programs, beginning in Program Year 2005
- To eliminate the requirement to competitively procure training providers for Older and Out-of-School youth under WIA Section 123, and the provisions at 20 CFR 664.510 which preclude the use of Individual Training Accounts for youth training services.
- To allow local workforce investment boards (LWIB) to use up to a maximum of 10% of local formula funds, allocated under WIA Sections 127, 128, 132 and 133, in the same manner as State discretionary funds.

Each of the waiver requests is attached and submitted according to the guidelines identified in WIA Section 189(i)(4)(B) and 20 CFR Section 661.420(c). The Workforce Investment Act prescribes a strong role for local workforce investment boards and the private sector in strategic planning, policy development and oversight of the local workforce investment system and its activities. Our waiver requests will allow workforce investment boards greater flexibility, a key element in the development of comprehensive systems designed to meet the needs of their diverse local areas.



Emily Stover DeRocco

May 31, 2005

Page Two

While we have been informed that the waiver requests need only be attached to our State Plan submission, we have elected to send these under separate cover as well.

If you have questions or concerns, please contact Bernard Antkowiak at 410-767-2997 or via email at bantkowiak@dlr.state.md.us. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Fielder, Jr.", written in a cursive style.

James D. Fielder, Jr., Ph.D.
Secretary

cc: Ms. Lenita Jacobs-Simmons, DOL/ETA Regional Administrator
John M. Wasilisin, DLLR Deputy Secretary
Bernard L. Antkowiak, DLLR/DWD Assistant Secretary
Robert Seurkamp, GWIB Executive Director

Attachment H

State of Maryland Waiver Request

Transfer of Workforce Investment Act (WIA) Title I Funds between the Adult and Dislocated Worker Funding Streams

The Governor's Workforce Investment Board (GWIB) and the Department of Labor, Licensing and Regulation (DLLR), administrative entity for WIA Title I programs, request a waiver of the legislative provisions, calling for the transfer of no more than 20% of a program year's allocation between the Adult and Dislocated Worker programs. The waiver would grant individual LWIBs, with State approval, the ability to transfer up to 100% of each program year allocation between the Adult and Dislocated Worker funding streams, beginning in Program Year 2005.

Waiver Duration:

July 1, 2005 through June 30, 2007 or upon re-authorization of the Workforce Investment Act.

This waiver request follows guidelines identified in WIA Section 189(i)(4)(B) and 20 CFR Section 661.420(c).

Statutory and Regulatory Sections to be Waived:

Statute: P.L. 105-220, WIA Section 133(b)(4)(A) and (B), and **Regulations:** 20 CFR, WIA Final Rules Section 667.140 (a). These sections provide that with the approval of the Governor, Local Workforce Investment Boards (LWIB) may transfer up to 20% of a program year's allocation for adult employment and training activities, and up to 20% of a program year's allocation for dislocated worker employment and training activities between the two programs.

In Maryland, twelve Local Workforce Investment Areas (LWIA) are comprised of diverse communities and labor markets that represent unique challenges to the provision of WIA services. In addition, the disproportion of Marylanders residing in the state's Baltimore and Suburban Washington metropolitan areas, which account for 82% of the state's population, versus those who reside in large rural areas, reflects the need for maximum flexibility in the transfer of funds. Throughout non-metropolitan areas, the majority of businesses employ fewer than 50 people and employee turnover is minimal. In contrast, metropolitan areas are headquarters for some of the state's largest employers.

The Governor's Workforce Investment Board has consistently advocated for local alliances that strengthen the level and mix of services to job seekers, as well as streamlining service delivery. However, local decisions have been constrained at times by Federal rules that limit funding and, thus, services to adults or dislocated workers. Maximum flexibility in the transfer of funds would help ensure that services to both adults and dislocated workers would be maintained at levels

sufficient to meet the distinct needs of each group. This flexibility would also help support local service plans that must integrate the cultural, educational, and employment-related needs unique to each workforce community.

State and Local Statutory Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implementing the waiver. DLLR and GWIB policies are in compliance with current Federal guidelines. Upon notification of approval of this waiver request, state policies will be amended to comply with the terms of the waiver. The state policies will outline specific actions each LWIB must take in requesting the Governor's approval to modify the LWIB's most current transfer rate between Adult and Dislocated Worker funding streams. Specific actions will include, but are not limited to, a formal request to be submitted by the LWIA to DLLR and GWIB for review and action, and formal modification of the LWIB's local plan if approval of a new transfer rate is granted.

Goals to be Achieved by the Waiver:

- Enhance the ability of local boards to respond to workforce and economic dynamics within their local areas;
- Increase local flexibility in the design of Adult and Dislocated Worker service plans;
- Improve performance outcomes;
- Improve the ability of local boards to design programs and provide targeted assistance in response to customer needs; and
- Enhance the local board's ability to respond to employer needs for workers trained in employer-specific skills.

Programmatic Outcomes to be Achieved by the Waiver:

The responsibility of each LWIB is to plan, oversee and evaluate the delivery of WIA employment and training programs in their respective areas through the One-Stop service delivery system. Because of Maryland's size, its population distribution, its cultural diversity, and the remoteness of many of its communities, customer needs vary greatly from one local workforce investment area to another. The flexibility to transfer funds between the Adult and Dislocated Workers programs allows LWIBs to respond more effectively to their individual communities.

With this waiver, LWIBs would be obliged to design programs that speak to the service priorities among their customers and that lead to customer employment and self-sufficiency. The waiver would also help position Maryland's workforce as better skilled and more competitive in the wake of a broader economic picture.

Individuals Impacted by the Waiver:

The waiver is expected to benefit LWIBs, One-Stop partner programs, employers, service providers and WIA customers.

- LWIBs will have the flexibility to design programs based on local needs and priorities.
- One-Stop partner programs will be able to better align their service offerings with those of the local WIA programs.
- Employers will be better served through participants that acquire skills specific to each employer's needs.
- WIA program participants will receive services appropriate to the participant group(s) for which they are eligible.
- Increased utilization of funds will result in more participants being served in the aggregate.

Process Used to Monitor Progress in Implementing the Waiver:

Maryland's program and fiscal monitoring system has been developed with input from the U. S Department of Labor's Employment and Training Administration Region 2 Office. The State's performance tracking system continually assesses the effectiveness of our WIA programs. The State will pay specific attention to the effects of implementation of this waiver. Waivers will not be granted to local workforce areas until appropriate policies and guidelines have been reviewed by the Governor's Workforce Investment Board and approved by the Governor. These policies and guidelines will ensure that appropriate funding levels remain allocated to the needs of dislocated workers.

Process for Notice to Local Boards and the Opportunity to Comment:

Notice to LWIBs occurred via the draft State Plan posted on the DLLR website for the 30-day public review and comment period. In addition, the waiver request was discussed with LWIA Directors at an association meeting in May 2005 at which time they expressed their endorsement.

State of Maryland **Waiver Request**

Waiver to Allow Additional Flexibility in the Use of Local WIA Formula Funds

Statutory and Regulatory Provisions to be Waived:

The Governor's Workforce Investment Board (GWIB) and the Department of Labor, Licensing and Regulation (DLLR), administrative entity for WIA programs, request a waiver from the provisions of WIA Sections 129 and 134, as well as Title 20 of the Code of Federal Regulations (CFR) Section 663.145. This waiver would allow local workforce investment boards to use funds allocated under Sections 127, 128, 132 and 133 in the same manner as state discretionary funds are used under WIA Sections 129 and 134 and Title 20 CFR 667.130 in order to meet the changing needs of Maryland employers, incumbent workers, job seekers and youth. Local requests would require review and approval of the GWIB and would be limited to no more than 10% of the local area's formula allocation.

- WIA § 129 specifies that local areas will provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers.
- WIA § 134 specifies that local workforce investment areas will provide rapid response and employment and training activities to Adults and Dislocated Workers.

Waiver Request:

This waiver seeks additional flexibility in the use of WIA formula funds by local boards, allowing them to meet the local workforce demands of employers, incumbent workers, job seekers and youth. This expanded flexibility would enable boards to provide activities allowed under the WIA authorized use of Statewide Activity funds. Acceptable statewide activities will include:

- Developing innovative incumbent worker training programs(WIA Section 134 (a)(3)(A)(iv)(I));
- Developing innovative programs for displaced homemakers (WIA Section 134 (a)(3)(A)(vi)(I));
- Creating programs to increase the number of individuals trained for and placed in non-traditional employment (WIA Section 134 (a)(3)(A)(vi)(II));
- Carrying out activities for youth (WIA Section 129 (b)(3));
- Developing exemplary program activities (WIA Section 134 (a)(3)(A)(ii));
- Conducting research and demonstrations for a variety of populations including youth, adults and dislocated workers (WIA Section 134 (a)(3)(A)(iii));

- Providing rapid response activities which connect to and support state rapid response activities (WIA Section 134 (a)(2)(A));
- Developing aversion of layoff activities (20 CFR 665.320(d)(1)); and
- Other such adult, dislocated worker and youth activities as determined by the local area via request to the state for approval, except for activities excluded below (WIA Section 134 (a)(3)(A)(vii)).

No separate amount will be set aside for the administration of such activities. Local areas opting to conduct these activities will work under their current 10% administrative cost limitation.

At this time, we are not applying the waiver to the following activities, which are most appropriately undertaken at the state level:

- The provisions of WIA Section 134(a)(2)(B)(i) to (iv) pertaining to disseminating the statewide eligible training provider list, conducting evaluations for the purposes of state workforce activities, providing state incentive grants, and providing technical assistance for local areas that fail to meet performance standards;
- Assisting in the establishment and operation of One-Stop delivery systems (WIA Section 134(a)(2)(B)(v)); and
- Operating a fiscal and management accountability information system under WIA Section 136(f) (WIA Section 134(a)(2)(B)(vi)).

Upon approval of the waiver by USDOL, the following process will be established to review and approval local requests:

- The Governor will reserve not more than 15 percent of the amount that is allotted to the State to carry out statewide employment and training activities for youth, adults and dislocated workers.
- The Governor will allocate WIA formula funds for services to youth, adults and dislocated workers to Maryland's 12 local workforce investment areas.
- Local boards will submit requests, as local plan amendments, to the Governor for a portion of the area's formula funds to be designated as Special Activity Funds. The requested funds must be used consistent with the allowable statewide activities outlined above.
- The amendment must specify a dollar amount and percentage of the actual formula funds (youth, adult or dislocated worker) to be designated as Special Activity Funds. The amendment must describe the project, the services or activities to be delivered and the local conditions that require the increased flexibility in the use of funds. The amendment must also include performance benchmarks and how they will be measured.
- The amendment will be evaluated by the GWIB, the body to whom the Governor has delegated this authority, along with a review of current WIA performance and expenditure levels by the Department of Labor, Licensing and Regulation.
- The GWIB and DLLR will notify local boards of approved plan amendments as appropriate.

Local areas will not be awarded flexibility under this waiver unless they are meeting WIA performance expectations and expenditure levels at a satisfactory level. Local areas that are

approved to use local funds under the conditions of this waiver will be expected to meet established program performance benchmarks and to track the expenditure of these funds by funding stream.

Waiver Duration:

July 1, 2005 through June 30, 2007 or upon re-authorization of the Workforce Investment Act.

This waiver request follows guidelines identified in WIA Section 189(i)(4)(B) and WIA Final Rules at 20 CFR Section 661.420(c).

State and Local Statutory Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implementing the waiver. DLLR and GWIB policies are in compliance with current Federal guidelines. Upon notification of approval of this waiver request, state policies will be amended to comply with the terms of the waiver. The state policies will outline specific actions each LWIB must take in requesting the Governor's approval. Specific actions will include, but are not limited to, a formal request to be submitted by the LWIA to DLLR and GWIB for review and action, and formal modification of the LWIB's Local Plan if approval is granted.

Goals to be Achieved by the Waiver:

- Improve the ability of Boards to appropriately and quickly respond to the needs of employers, incumbent workers, job seekers and youth;
- Increase the capacity for development of innovative demonstration projects, particularly those that meet the USDOL strategic youth vision or that support training in high-growth, high-demand occupations;
- Increase accountability at the State, local and service provider levels; and
- Provide greater flexibility to Boards in designing and implementing WIA programs.

Programmatic Outcomes to be Achieved by the Waiver:

Critical to the Governor's mission of developing a nationally recognized, demand-driven workforce development system are the following key principles. They include creating a workforce investment system that is:

- Customer-driven, the ultimate customer being employers;
- Focused on economic development;
- Business-led;
- Locally planned and controlled;
- Linked to Maryland's educational systems (preK-16);
- Committed to maximizing worker potential; and
- Accountable for results and continuous improvement.

Statewide discretionary funds can enhance the service delivery of required WIA programs and activities at the local level and promote the development of demonstration projects that support the

Governor's vision. Providing additional flexibility for the use of formula funds will enable local boards to tailor programs to meet the demands of local employers and the needs of incumbent workers, job seekers and youth, and to further reform the state's workforce development system. Successful models, developed as the result of this waiver, will then be replicable throughout the State of Maryland.

Under this waiver, local boards will be held accountable for continuing to meet all WIA performance measures. Board performance and expenditure of formula funds must be satisfactory before the expanded use of funds under this waiver is granted.

Individuals Impacted by the Waiver:

The waiver would benefit employers, incumbent workers, job seekers, dislocated workers, youth, local workforce investment boards, service providers and One-Stop staff. Although it is a relatively small state, Maryland is made up of diverse economic regions, which respond differently to local, regional and national trends. While some regions have experienced growth in recent years, others have experienced economic hardships resulting in major workforce reductions and plant closures. The flexibility in formula funding usage as prescribed under this waiver would enable local boards to substantially increase the services they provide to local businesses, dislocated workers and job seekers in a more responsive and innovative manner. The waiver would also enable local area One-Stops to assist customers that do not fit statutorily defined populations under WIA.

Process Used to Monitor Progress in Implementing the Waiver:

Maryland's programmatic and fiscal monitoring system has been developed with the input of the Department of Labor's Employment and Training Administration Region 2 Office. The Maryland Workforce Exchange system will be used to track service activity and performance outcomes. The State will pay specific attention to the effects of implementation of this waiver. Waivers will not be granted to local workforce areas until appropriate policies and guidelines have been reviewed by the Governor's Workforce Investment Board and approved by the Governor. These policies and guidelines will also ensure that appropriate funding levels remain allocated to the needs of dislocated workers.

Process for Notice to Local Boards and the Opportunity to Comment:

Notice to LWIBs occurred via the draft State Plan posted on the DLLR website for public review and comment. The waiver request was also discussed with LWIA directors at a May 2005 association meeting and they have expressed their endorsement.

State of Maryland **Waiver Request**

Waive the Prohibition on Use of WIA Youth Dollars to Fund Individual Training Accounts for Older and Out-of-School Youth

The Governor's Workforce Investment Board (GWIB) and the Department of Labor, Licensing and Regulation (DLLR), administrative entity for WIA programs, after consultation with key partners, request a waiver to Title 20 of the Code of Federal Regulations (CFR) Section 664.510, which permits Individual Training Accounts (ITA) for youth only if they are determined eligible for and are co-enrolled as an adult or dislocated worker.

The intent of this request is to enable local workforce investment areas (LWIAs) to use ITAs for youth participants, as they deem appropriate, based on a valid assessment of interests, skills and aptitude. We recognize that currently, under CFR Section 664.500, older youth ages 18 and over may be concurrently enrolled as adults and therefore may use ITAs as "adults." The regulation in this section also points out that there is no specified age for the Dislocated Worker program, which conceivably means that youth under 18 years of age can meet the dislocated worker eligibility requirements and could be co-enrolled and receive ITAs. Under both scenarios, dollars for the ITA are charged to the Adult or Dislocated Worker funding streams rather than the Youth funding stream.

The inability to charge the cost of the ITA back to the youth account draws down adult funds unnecessarily and does not allow some of those expenditures to be appropriately counted toward the 30% out-of-school expenditure requirement.

Waiver Duration:

July 1, 2005 through June 30, 2007 or upon re-authorization of the Workforce Investment Act.

This waiver request follows guidelines identified in WIA Section 189(i)(4)(B) and WIA Final Rules at 20 CFR Section 661.420(c).

Statutory and Regulatory Sections to be Waived:

- WIA § 123 (29 USCA § 2843) provides that local areas will award grants or contracts for youth services based on a competitive process.
- WIA § 134 (d) (4) (29USCA §2864 (d) (4)) limits access to eligible training providers to Adults and Dislocated Workers.

State and Local Statutory Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implementing the waiver. DLLR and GWIB policies are in compliance with current Federal guidelines. Upon notification of approval of this waiver request, state policies will be amended to comply with the terms of the waiver. The state policies will outline specific actions each LWIB must take in requesting the Governor's approval. Specific actions will include, but are not limited to, a formal request to be submitted by the LWIA to DLLR and GWIB for review and action, and formal modification of the LWIB's Local Plan if approval is granted.

Goals to be Achieved by the Waiver:

- Maximizing the service delivery capacity of the WIA youth programs within the One-Stop Career Center delivery system by allowing youth who are determined not to follow the academic track, and are instead employment focused, to have the same access as adults and dislocated workers to the advantages of ITAs. This will support USDOL's strategic youth vision.
- Reducing administrative paperwork related to the co-enrollment of youth in both programs.
- Enabling youth, whose assessment has determined that an ITA is the best strategy for them, to be treated equally with an adult who has the same or similar needs and training strategies.
- Charging ITA costs to the youth program instead of the Adult or Dislocated Worker programs would reduce the dependence on the limited adult funds and also may possibly contribute to the ability of LWIAs to meet the 30% out-of-school expenditure requirement.

Programmatic Outcomes to be Achieved by the Waiver:

A large percentage of older and out-of-school youth either want to train for an occupation or need to work due to their financial situations. With a waiver, these youth can pursue their occupational goals without the additional barrier of having to meet additional Adult or Dislocated Worker program eligibility requirements.

Granting the waiver will also decrease unnecessary local and state paperwork, reduce extra staff work to track and report the co-enrollments, and free youth case managers to continue working with the older youth rather than transferring the case to an adult case manager.

With ITA costs for youth chargeable directly to the Youth program rather than to the Adult and Dislocated Worker program, youth expenditure levels will improve overall and could contribute to some LWIAs meeting their 30% out-of-school expenditure requirement.

Individuals Impacted by the Waiver:

The chief impact of the waiver would be on older and out-of-school youth who would benefit from the use of ITAs. Indirectly, the waiver would also affect local youth case managers who would not have to expend staff time on duplicative eligibility determination and who would be allowed to continue managing the employment development of impacted youth.

Process Used to Monitor Progress in Implementing the Waiver:

Maryland's program and fiscal monitoring system has been developed with the input from the Department of Labor's Employment and Training Administration Region 2 Office. The State's performance tracking system continually assesses the effectiveness of our WIA programs. The State will pay specific attention to the effects of implementation of this waiver. Waivers will not be granted to local workforce areas until appropriate policies and guidelines have been reviewed by the Governor's Workforce Investment Board and approved by the Governor. These policies and guidelines will also ensure that appropriate funding levels remain allocated to the needs of dislocated workers.

Process for Notice to Local Boards and the Opportunity to Comment:

Notice to LWIBs occurred via the draft State Plan posted on the DLLR website for public review and comment. The waiver request was also discussed with LWIA directors at a May 2005 association meeting and they have expressed their endorsement.